

**IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION**

Latasha Holloway, *et al.*,

Plaintiffs,

v.

City of Virginia Beach, *et al.*,

Defendants

Civil Action No. 2:18-cv-0069

**PLAINTIFFS' BRIEF IN OPPOSITION TO DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

PLAINTIFFS' EXHIBIT 11

Deposition Transcript of Virginia Beach Mayor Robert Dyer



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Transcript of Robert M. Dyer

Date: September 11, 2019

Case: Holloway, et al. -v- City of Virginia Beach, et al.

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

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LATASHA HOLLOWAY and :
GEORGIA ALLEN, :
Plaintiffs, : CASE NO.
v. : 2:18cv00069
CITY OF VIRGINIA BEACH, et al., :
Defendants. :

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Deposition of ROBERT M. DYER
Virginia Beach, Virginia
Wednesday, September 11, 2019
2:10 p.m.

Job No. 261325

Pages 1 - 105

Reported by: Penny C. Wile, RPR, RMR, CRR

Transcript of Robert M. Dyer
Conducted on September 11, 2019

2

1 Deposition of ROBERT M. DYER, held at the
2 offices of:

3
4
5 VIRGINIA BEACH CITY ATTORNEY
6 2401 Courthouse Drive
7 Municipal Center, Building One
8 Room 260
9 Virginia Beach, VA 23456
10 (757) 385-4351
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17 Pursuant to Notice, before Penny C. Wile,
18 RPR, RMR, CRR, Notary Public of the Commonwealth
19 of Virginia.
20
21
22

Transcript of Robert M. Dyer
Conducted on September 11, 2019

3

1 A P P E A R A N C E S
2 ON BEHALF OF THE PLAINTIFFS, LATASHA HOLLOWAY
3 AND GEORGIA ALLEN:
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12 ON BEHALF OF THE DEFENDANTS, CITY OF VIRGINIA
13 BEACH, ET AL.:
14 CHRISTOPHER S. BOYNTON, ESQUIRE
15 OFFICE OF THE VIRGINIA BEACH CITY ATTORNEY
16 2401 Courthouse Drive
17 Municipal Center, Building One
18 Room 260
19 Virginia Beach, VA 23456
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22

Transcript of Robert M. Dyer
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1 P R O C E E D I N G S

2 Whereupon,

3 ROBERT M. DYER,

4 after having been first duly sworn, was examined
5 and did testify under oath as follows:

6 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS:

7 BY MR. LAMAR:

8 Q. Good afternoon, Mr. Dyer. My name is
9 Chris Lamar, and I represent the plaintiffs in
10 this case.

11 A. Okay.

12 Q. I'm going to be asking you a couple of
13 questions today.

14 A. Sure.

15 Q. But before I do, I want to get a couple of
16 ground rules out of the way before we start --

17 A. Not a problem at all.

18 Q. -- so we understand each other.

19 As you can see, the court reporter is
20 transcribing everything we say. So the court
21 reporter is able to get everything on the record,
22 please let me finish asking my question before you

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1 start answering, and I'll try to give you the
2 grace of letting you finish your answer before I
3 ask another question.

4 The court reporter can only record verbal
5 responses, and so when you're answering questions
6 please use verbal responses, like yes and no and
7 those kind of things.

8 We can take a break at any time. I only
9 ask that we only take breaks after you've answered
10 a question, not while a question is pending.

11 Could you please state your name for the
12 record?

13 A. Robert M. Dyer, D-Y-E-R.

14 MR. BOYNTON: Just before we get going,
15 there's been some question about how we handle
16 legislative privilege in the context of the
17 depositions with the various Council members.

18 Just so we're all on the same page, do
19 you, sir, wish to assert legislative privilege as
20 to your testimony in this case?

21 THE DEPONENT: Yes.

22 MR. BOYNTON: So we will just address that

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1 on a question-by-question basis as it comes up.

2 MR. LAMAR: Right.

3 And let the record also reflect that
4 legislative privilege is a qualified privilege,
5 not an absolute privilege.

6 MR. BOYNTON: The law says what the law
7 is.

8 MR. LAMAR: It says it's a qualified
9 privilege.

10 MR. BOYNTON: The assertion of it is in
11 play here today.

12 Q. Mr. Dyer, for the record, what is your
13 race?

14 A. Caucasian.

15 Q. All right. Do you understand that you are
16 under oath today?

17 A. Yes, I do.

18 Q. Is there any reason why you cannot give
19 truthful answers to my questions today?

20 A. I will give truthful answers.

21 Q. Have you ever been deposed before?

22 A. Yes.

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1 Q. In those cases, were they related to
2 voting rights litigation?

3 A. No.

4 Q. Were they related to racial
5 discrimination?

6 A. No.

7 Q. What cases were you being deposed in?

8 A. The arena case.

9 Q. The arena case? And what was that case
10 about?

11 A. You know, the folks that were looking to
12 build the arena, you know. They had a lawsuit
13 against the city.

14 Q. All right. When was that?

15 A. About a year ago.

16 MR. BOYNTON: Are you asking him when was
17 he deposed?

18 Q. When were you deposed?

19 A. I'm not sure.

20 Q. Would you say in the past two to five
21 years?

22 A. Within the last year.

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9

1 Q. Okay.

2 MR. BOYNTON: And even on innocuous stuff
3 I'm not supposed to fill in blanks. That's why
4 I'm looking away when you are looking at me to
5 answer.

6 THE DEPONENT: Not a problem. Not a
7 problem.

8 MR. LAMAR: Thank you for that.

9 Q. When did you first learn about this
10 lawsuit?

11 A. I would say, yes, maybe six months ago.

12 Q. So I'm going to ask you a couple of
13 questions. And while I'm asking these questions I
14 do not want to know about communications that are
15 protected between you and your attorney.

16 A. Okay.

17 Q. What did you do to prepare for this
18 deposition?

19 A. You know, basically, I went through
20 whatever emails I had and, you know, texts. And I
21 found no communications whatsoever.

22 Q. What email addresses did you look through?

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1 A. I looked through my Bob --
2 bdyer@vbgov.com, but I also have a bob.dyer which
3 is mostly my campaign account.

4 Q. bob.dyer; is that correct?

5 A. bob.dyer@cox.net.

6 Q. Okay. You also have a -- it was a Gmail
7 account, I believe?

8 A. That was set up with my cellphone. I
9 never use it.

10 Q. All right. Did you also check the Gmail
11 account?

12 A. No. Like I said, I never use it.

13 Q. All right. I just want to back up really
14 quickly. So you're saying that you weren't made
15 aware about this -- of this lawsuit before six
16 months ago; is that correct?

17 A. I'm just trying to guess. Once again, you
18 know -- since, you know, May, a lot on the plate.

19 Q. Yeah.

20 When did you become Mayor?

21 A. Last November.

22 Q. Last November. All right. Thank you for

Transcript of Robert M. Dyer
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11

1 that.

2 Outside of communications protected by
3 attorney-client privilege, did you meet with
4 anyone?

5 MR. BOYNTON: In preparation for his
6 deposition?

7 Q. In preparation for --

8 A. I met with the attorney.

9 Q. Who was present at that meeting?

10 A. Myself, Mr. Boynton, and one other
11 attorney.

12 Q. All right. Anyone else?

13 A. That was it.

14 Q. Did you review any documents at that --

15 A. No, I did not.

16 Q. Did you take any notes at that meeting?

17 A. No, I did not.

18 Q. Did you discuss your deposition with any
19 members of the City Council?

20 A. No.

21 Q. Did you discuss your deposition with
22 former City Manager Hansen?

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1 A. No.

2 Q. Did you have any other meetings to prepare
3 for this deposition?

4 A. No.

5 Q. Have you had any conversations with anyone
6 else to prepare for this deposition?

7 A. No.

8 Q. Any communications: phone, email, about
9 preparing for this deposition?

10 A. No.

11 Q. You kind of answered this before. But did
12 you review any documents in preparation for this
13 deposition?

14 A. No.

15 Q. So no court documents, trial transcripts,
16 motions, anything?

17 A. No.

18 Q. All right. Did you bring any documents
19 with you to this deposition today?

20 A. No.

21 Q. Is there any reason you could not be in
22 Norfolk, Virginia during the week of January 14th,

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1 2020? That's the week of trial.

2 A. No.

3 Q. No, you --

4 A. No. I will be available. No.

5 Q. Like any vacation planned or anything like
6 that?

7 MR. BOYNTON: Mr. Wood had the best
8 answer. He has a grandchild being born in
9 Belgium.

10 A. I'll be around.

11 Q. All right. So what is your position now
12 with the City of Virginia Beach?

13 A. I am Mayor of Virginia Beach.

14 Q. And how long have you held that position?

15 A. Since November of 2018.

16 Q. Before you became Mayor of Virginia Beach,
17 did you hold any other positions?

18 A. I was on Virginia Beach City Council,
19 Centerville rep, since 2004.

20 Q. Have you held any other city government
21 positions?

22 A. No.

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1 Q. Have you held any other state government
2 positions?

3 A. I was on the State Board of Physical
4 Therapy Examiners in New Jersey in -- sometime in
5 the 1980s. That was it.

6 Q. That was in New Jersey?

7 A. That is correct.

8 Q. So it's correct to say that you were the
9 Council member for the Centerville district and
10 you ran for Mayor --

11 A. That is correct, when the Mayor stepped
12 down.

13 Q. Got it. Okay.

14 When did you move to Virginia Beach?

15 A. 1990. August of 1990.

16 MR. BOYNTON: They're supposed to stick.

17 I'm referring to Post-Its, for the record.

18 Q. Tell me about your job as Mayor for
19 Virginia Beach. What job duties do you have?

20 A. Oh. That's rather eclectic. It goes
21 everywhere from presiding over City Council,
22 approving the agenda, you know, budgetary matters,

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1 passing -- enabling ordinances and resolutions,
2 making policy decisions, providing direction to
3 Council appointees, and, in addition, you know,
4 being -- public appearances and, you know, whether
5 it be proclamations, ribbon cuttings, that kind of
6 thing. That's, kind of, the crux of it.

7 Q. Got it.

8 So when you say presiding over City
9 Council, are you referring to meetings?

10 A. Yes.

11 Q. Like, when there is a workshop?

12 A. I'm the guy with the gavel.

13 Q. Got it.

14 And when you say approving the agenda, do
15 you determine what's on the agenda; is that right?

16 A. Yes.

17 Q. Okay. Is that for the City Council agenda
18 or does that also -- my understanding is that the
19 City Manager also has an agenda in certain
20 instances?

21 A. No. These are for the city -- I just came
22 from, you know, approving the agenda for this

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1 coming Tuesday.

2 Q. Okay. Got it.

3 And, then, that goes into the Friday
4 packet?

5 A. Yeah. It goes into the Friday packet.
6 And, then, it, you know, gets distributed to the
7 press for public announcement.

8 Q. Got it.

9 Talk to me about the budgetary matters.
10 What does that involve?

11 A. Well, the Manager, you know, presents a,
12 you know, preliminary budget, at which time we
13 then conduct public hearings, we have discussions
14 among Council members, and then, at the
15 appropriate time, you know, vote on the budget.

16 Q. Okay. How often does this take place?

17 A. Once a year.

18 MR. BOYNTON: Thank God, once a year.

19 A. That is the truth.

20 Q. So -- all right. So the budgetary
21 process, is it the City Manager -- like, walk me
22 through that. How does the budgetary process work

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1 with the city?

2 A. The City Manager and his staff prepare the
3 budget for review.

4 Q. Okay.

5 A. At which time the Council assumes
6 responsibility for the disposition of the budget.
7 We conduct public hearings, three public hearings.
8 And, then, we among ourselves decide what the
9 final budget would be and vote on it.

10 Q. Okay. So outside of this budgetary
11 process, if there is a question about what to do
12 in terms of something that relates to a budgetary
13 issue, is that the City Manager's decision? Is
14 that correct?

15 A. Well, the City Manager -- we have a
16 Council/Manager form of government. They're
17 responsible for a lot of the execution. City
18 Council are the policy people.

19 Q. Okay.

20 A. The execution goes with the City Manager.

21 Q. So -- this is a hypothetical.

22 A. Sure.

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1 Q. Kind of follow me for a second. So if the
2 City Council says we're giving the City Manager a
3 thousand dollars to, you know, construct a
4 sidewalk, it's, then, the City Manager's job to
5 dictate --

6 A. To execute.

7 Q. Yeah.

8 A. To determine the contracts and make sure
9 it's -- it gets done.

10 Q. Okay. All right. Thank you.

11 I want to back up one more second.

12 A. Sure.

13 Q. With approving the agenda, how does
14 someone get something on the agenda for City
15 Council meetings? Let's say I want to talk about
16 a problem that I'm having in, you know, my
17 neighborhood or district or whatever. Like, how
18 does that -- how does that work?

19 A. Okay. Once again, it would not be an
20 agenda item. These are ordinances and
21 resolutions. A lot of them has to do with
22 transfer of money, allocation of different monies,

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1 but also approving building projects, variances,
2 you know, things of that order. If a member of
3 the community would like to speak to us on the
4 first Tuesday of the month, anybody can come
5 forward at open mic night and bring forward any
6 individual item --

7 Q. Okay.

8 A. -- without having to go through the
9 process.

10 Q. So if I'm a Council member and I want
11 to -- and I want to --

12 A. A Council member has the ability to submit
13 a resolution or an ordinance.

14 Q. Okay. And, then, would the vote on the
15 ordinance and, then, the resolution, that happens
16 on every other Tuesday; would that be correct?

17 A. That would be -- yeah. We have, too, we
18 have --

19 Q. Is that the workshops?

20 A. -- workshops. Yeah.

21 Q. Okay. So, I mean, you could -- this seems
22 like it's very straightforward. Like, public

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1 appearances, that's more so just going out,
2 shaking hands, meeting with people?

3 A. Yeah. You know, I have town hall
4 meetings.

5 Q. Uh-huh.

6 A. I do ribbon cuttings. I show up at
7 people's hundredth birthdays, you know, try,
8 and -- you know -- just, you know, being
9 accessible to the public.

10 Q. What's a town hall meeting?

11 A. You know, that's where any individual
12 Council member could reserve a space. You know,
13 like, I used to do it at Tallwood High School.

14 Q. Uh-huh.

15 A. And city management would bring in various
16 department heads and things of that nature.

17 Q. Okay.

18 A. And, then, we would invite the public at
19 large to come in and, you know, to explain to them
20 what projects are going on, explain to them -- but
21 also give them the ability to, you know, voice
22 concerns or suggestions or things.

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1 Q. Okay.

2 A. It's a public forum.

3 Q. So you were doing these -- I'm assuming
4 you are doing these town hall meetings as Mayor;
5 is that correct?

6 A. I did them --

7 Q. Yeah.

8 A. -- also as a Council rep.

9 Q. I guess my question is as Mayor are you
10 doing these town hall meetings around the city?

11 A. I did a series of meetings right after I
12 got sworn in, before, you know, 2019 happened.
13 And I'm planning on doing them again.

14 Q. All right.

15 A. But I do get out. But I, also, attend
16 other Council members' meetings.

17 Q. Got it.

18 When you say 2019 happened, are you
19 saying --

20 A. I have -- between -- I got sworn in on
21 November 20th. By December 21st, I was in every
22 district.

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1 Q. Got it. Okay.

2 I just didn't know if there was an event
3 that happened in 2019, like you were referring to.
4 But that makes sense.

5 A. Okay.

6 Q. And I'm guessing you holding -- were you
7 holding these town hall meetings -- when you were
8 the Centerville rep, were you holding these
9 meetings in Centerville?

10 A. Yes.

11 Q. Besides those things you've listed so far:
12 presiding over City Council meetings, approving
13 the agenda, budgetary matters, enabling
14 ordinances, public policy decisions, and public
15 appearances, do you have any other job duties as
16 Mayor?

17 A. But, once again, the Mayor and Council are
18 responsible for our Council appointees, which is
19 City Manager, City Attorney, City Clerk, Auditor,
20 and Real Estate Assessor.

21 Q. How often do those -- does the City
22 Council vote to approve -- can you say those names

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23

1 one more time: the Clerk, Attorney --

2 A. We have a City Manager, City Attorney,
3 City Clerk, Auditor, and Tax Assessor.

4 Q. Okay. And how often -- when does the City
5 Council approve or, I guess, appoint people to
6 these positions? Is it -- just give me -- like,
7 walk me through, like, the appointment process for
8 these positions.

9 A. When a vacancy occurs.

10 Q. Okay. So hypothetically, if I'm City
11 Auditor, assuming I'm doing a good job, that
12 position continues until the City Council
13 finally --

14 A. Every year we do a review at the time and,
15 then, make an award of, if necessary, a pay
16 increase.

17 Q. So there is -- you know, is this annual
18 review, is that more like, sort of, a check-in
19 sort of review kind of assessment?

20 A. Yes. Yes.

21 Q. All right. Would you say that in your
22 position as Mayor and Council member you have a

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1 lot of responsibilities?

2 A. Yes.

3 Q. Would you say that in your position as
4 Mayor does your position -- is your position
5 different compared to other Council members?

6 A. Yes.

7 Q. How so?

8 A. You know, once again, I preside over the
9 meetings.

10 Q. Uh-huh.

11 A. And, you know, the -- you know, the public
12 demand for me to make appearances, you know, is a
13 lot greater. And, you know, I still have to work
14 a full-time job.

15 Q. So is the Mayor position also a part-time
16 position, like the --

17 A. Yes, it is.

18 Q. You believe the public demand for your
19 appearances is greater because you're Mayor; is
20 that correct?

21 A. Correct.

22 Q. What's your -- the full-time job?

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1 A. I am a home care physical therapist.

2 Q. Can you talk to me about that a little
3 bit?

4 A. I work for Encompass Home Care. And I
5 am -- my service area is, you know, Virginia
6 Beach, Chesapeake, Norfolk, Suffolk. So, you
7 know, I actually go into people's homes after they
8 had joint replacements, had a stroke, been in a
9 car wreck, or whatever.

10 Q. So it sounds like you're traveling a lot
11 around --

12 A. Quite a bit, yes.

13 Q. -- this area at least?

14 A. Yes.

15 Q. Okay. You've talked a lot about these
16 town hall meetings. And you've talked about the,
17 sort of, like the ribbon cuttings, and appearing
18 before -- you know, just meeting with your
19 constituents?

20 A. Then we also meet with, you know,
21 potential people that want to do business with the
22 city.

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1 Q. Okay.

2 A. Economic development initiatives.

3 Q. When do those meetings happen?

4 A. You know, parsed throughout any one of
5 seven days a week.

6 Q. Yeah.

7 These are for business concerns, like
8 across the city I'm presuming? Like, it's not
9 necessarily related to one district; is that
10 correct?

11 A. Correct.

12 Q. Would you say there are certain City
13 Council members who attend these business
14 meetings?

15 A. At times.

16 Q. All right. Who are they?

17 A. You know, it depends on the meeting.

18 Q. Okay. That's fair enough.

19 So you've been Mayor since November 2018;
20 is that correct?

21 A. That is correct.

22 Q. Since November 2018, how many of these

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1 types of, sort of, like informal business meetings
2 would you say you've had?

3 A. All contexts?

4 Q. Uh-huh.

5 A. Between November 20th and May 1st, staff
6 calculated I did 155 events. And I am probably up
7 around, I'm just guessing, 250 appearances,
8 meetings with various people.

9 Q. Okay.

10 A. Not including -- not including my City
11 Council meetings.

12 Q. Right.

13 And these are, like, more informal? Are
14 these more like dinners, kind of like coffee shop
15 kind of settings?

16 A. All the above.

17 Q. Yeah.

18 Okay. So you've talked a lot about some
19 of the ways you interact with your constituents.
20 Are there any other ways you interact with your
21 constituents? Like, do you send out letters, send
22 out emails?

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1 A. I'm not an email or text person. I'm a
2 personal contact person.

3 Q. So would you say more phone calls with
4 folks?

5 A. I prefer face-to-face, but, if necessary,
6 I do things by phone.

7 Q. Yeah. Okay.

8 Do you use a cellphone for those calls?

9 A. Yes, I do.

10 Q. Is it the city-provided cellphone?

11 A. No.

12 Q. Is it your personal phone?

13 A. Personal phone.

14 Q. In your role as Mayor you would say you
15 work closely with the City Manager, correct?

16 A. Yes.

17 Q. In what ways do you work closely with the
18 City Manager, like outside of, like, sort of the
19 ways you've talked about with --

20 MR. BOYNTON: I'm going to ask you, are
21 you asking generally or with respect to a specific
22 City Manager over a period of time?

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1 Q. In what ways have you worked closely with
2 Dave Hansen?

3 A. You know, on a daily basis. In a
4 Council/Manager form of government it's essential,
5 you know, that we have good communications and
6 working relations.

7 Q. Would you say the same applies now to the
8 interim City Manager?

9 A. Yes.

10 Q. Would you say -- I guess do you know if
11 the ways in which you interacted with former City
12 Manager Dave Hansen was any different from the way
13 former Mayor Sessoms interacted with Dave Hansen?

14 A. Not to my knowledge. I wouldn't know
15 about that, to be honest with you.

16 Q. In your time on City Council do you know
17 if any other of the previous Mayors interacted
18 with any other previous City Managers in a way
19 that's different than the way you communicate?

20 A. I wouldn't have that knowledge.

21 Q. Okay. Would you -- do you know if the way
22 you communicate with former City Manager Hansen

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1 and current City Manager Leahy -- is that the
2 correct pronunciation?

3 A. Tom Leahy.

4 Q. Would you say that's any different from
5 the way that the current City Council members
6 interact with the City Manager?

7 A. I am not aware of, you know, the way the
8 other Council members interact.

9 Q. All right. Have you endorsed a candidate
10 running for a seat on the City Council?

11 A. Yes.

12 Q. Who? I guess let me back up.

13 A. Yeah.

14 Q. Have you endorsed any candidates for City
15 Council since 2010?

16 A. Yes. Quite a -- yes.

17 Q. All right. Who?

18 A. Well, all right. That would be Louis
19 Jones, Jim Wood, Rosemary Wilson. And I did help
20 Sabrina Wooten. She's a former student. Just
21 trying to think along the way. Meyera Oberndorf.
22 That's, basically, it.

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1 Q. In the 2018 election, do you remember
2 which candidates you supported or which candidates
3 you endorsed for City Council?

4 A. We kind of took a hands-off approach, you
5 know, when you run for City Council. But like I
6 said, you know, I was -- I tried to be helpful to
7 Sabrina, but we made the election that when you
8 run, you know, best to stay in your own lane.

9 Q. So did you endorse any of the slates, I
10 guess, that were out in 2018?

11 A. No. No, I didn't. No.

12 Q. Okay. Have you ever actively opposed a
13 candidate running for City Council?

14 A. No.

15 Q. Have you ever contributed money to a
16 candidate running for a seat on City Council?

17 A. To my knowledge, I have not given money to
18 anybody.

19 Q. Have you ever volunteered for the campaign
20 of a candidate for City Council?

21 A. There have been times I've gone out. I --
22 recently Rosemary Wilson, you know, I showed up at

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1 her events. I'd show up at Michael Berlucchi's
2 events. You know, they're both running currently.

3 Q. Uh-huh.

4 When you say show up at events, what does
5 that mean?

6 A. Sometimes they ask me to come and
7 introduce them.

8 Q. You said this was Rosemary Wilson and
9 Michael Berlucchi?

10 A. Yes. They're both up in the special
11 election.

12 Q. Have you ever put up a yard sign for a
13 candidate running for City Council in your yard?

14 A. In my yard? I'm just trying to think. To
15 be honest with you, I don't believe so.

16 Q. Okay. Have you provided any other support
17 for Virginia Beach City Council candidates?

18 A. Outside of, you know, endorsements, no.

19 Q. Okay. Have you made any contributions for
20 Virginia state Senate races?

21 A. To my knowledge -- I'm not a big giver to
22 political campaigns.

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1 Q. Any other campaign contributions for
2 Virginia state elections?

3 A. I think I gave a contribution years ago
4 for Ron Villanueva, but that was years ago.

5 Q. Do you know if it was for the Delegate
6 seat?

7 A. Delegate seat, yeah.

8 Q. All right. Did you provide any other kind
9 of support for Virginia state candidates, like
10 showing up at events?

11 A. Showing up at events, yes.

12 Q. That was for Ron?

13 A. Yes.

14 Q. When was that?

15 A. Oh, boy. You know, I forget how many
16 years ago that was.

17 Q. Okay. Is there anyone else you provided
18 this kind of, like, showing up at events and
19 introducing support for?

20 A. I'm trying to think. I went to something
21 for Bill DeSteph. He had an event. I just showed
22 up.

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1 Q. Can you spell that last name for me?

2 A. D-E and then S-T-E-P-H.

3 Q. P-H.

4 A. And, then, also recently for Tina Sinnen
5 who is running for Clerk of Court.

6 Q. Can you spell that last name for me?

7 A. S-I-N-N-E-N.

8 Q. Thank you.

9 These are the folks you're saying you've
10 shown up and done introduction for; is that
11 correct?

12 A. Yes.

13 Q. Did Louis Jones win his race, the one you
14 endorsed him for?

15 A. Yes.

16 Q. Did Jim Wood win the race you endorsed him
17 for?

18 A. Yes.

19 Q. And Rosemary Wilson did, as well?

20 A. Yes.

21 Q. And Sabrina Wooten, as well?

22 A. Yes.

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1 Q. Did Meyera Oberndorf win her election?

2 A. No. That's when Will Sessoms defeated
3 her.

4 Q. Was that for the Mayoral race?

5 A. That was for the Mayoral race. Those are
6 the ones I remember.

7 Q. You said you lived in Virginia Beach
8 since --

9 A. 1990.

10 Q. 1990.

11 Since 1990, were you working as the --
12 refresh my memory.

13 A. I was a physical therapist.

14 Q. So when you first came, you were a
15 physical therapist; is that right?

16 A. Yes.

17 Q. Between 1990 and today, would you say that
18 the minority population in Virginia Beach has
19 grown?

20 A. Yes.

21 Q. Today, would you say that minorities tend
22 to live close to each other in Virginia Beach?

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1 MR. BOYNTON: I'm going to object to the
2 form of the question. I think close is a
3 difficult thing to define. I'd ask you to
4 rephrase to be more specific.

5 Q. Do you understand the question?

6 A. No.

7 Q. Which part don't you understand?

8 A. What do you mean by close with minority?

9 Q. What does close mean to you?

10 A. You know, together, you know, in clusters,
11 that type of thing.

12 Q. So going with that --

13 A. Okay.

14 Q. -- would you say minorities live close to
15 each other?

16 A. The way I see, you know, being a home care
17 physical therapist, minorities are distributed all
18 over the city.

19 Q. Okay.

20 A. They're representative in every district.

21 Q. All right. Would you say they are more or
22 less distributed compared to white residents in

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1 Virginia Beach?

2 A. You know, I think there is a good blend of
3 the neighborhoods, you know, different people.
4 For instance, Centerville neighborhood, you know,
5 I did volunteer. That is the first majority
6 minority district in the city. And I can speak to
7 Centerville and say it is a very diverse and
8 integrated area.

9 Q. Have there been any minority candidates to
10 win the election from Centerville?

11 A. Sabrina Wooten.

12 Q. Sabrina Wooten?

13 A. Yes.

14 Q. That was in 2018, right?

15 A. Yes.

16 Q. Okay. Are there any neighborhoods that
17 you would classify as predominantly black?

18 A. Yes.

19 Q. Which ones are those?

20 A. Seatack, Level Green, College Park, Lake
21 Edward.

22 Q. I want to make sure I got them. Seatack,

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1 Level Green, College Park. And what was the last
2 one?

3 A. Lake Edward.

4 Q. Lake Edward.

5 Are there any neighborhoods you would
6 classify as predominantly Latino?

7 A. No.

8 Q. Are there any that you would classify --
9 any neighborhoods you would classify as
10 predominantly Asian?

11 A. You know, once again, I think, you know,
12 Virginia Beach is a very blended community.

13 Q. Okay. Are there any neighborhoods you
14 would classify as predominantly Filipino?

15 A. Good distribution.

16 Q. Same distribution. Okay.

17 All right. So following the 2010 census
18 the City of Virginia Beach redistricted the city's
19 seven residency districts; is that correct?

20 A. Yes.

21 Q. And you were a City Council member at that
22 time, right?

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1 A. Yes.

2 Q. In your role as a City Council member were
3 you involved in the redistricting that took place
4 after the 2010 census?

5 A. Yes.

6 Q. How so?

7 A. They were trying to identify a majority
8 minority district, and I stepped forward and I
9 said bring it to Centerville.

10 Q. And there were no majority minority
11 districts before the 2010 census?

12 A. Not to my knowledge.

13 Q. Did that happen? So is Centerville now --

14 A. Yes.

15 Q. -- a majority minority district?

16 A. Yes.

17 MR. BOYNTON: I would just ask, for the
18 court reporter's sake, to let him finish his
19 questions.

20 A. My apologies.

21 MR. BOYNTON: You're agreeing in
22 sympathicum. It's great, but it's hard for her to

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1 take down.

2 MS. LANG: Why don't we redo that
3 question?

4 A. Please. Not a problem at all.

5 MR. BOYNTON: That sounds better to me.
6 Now you're making me --

7 A. You have to forgive me. It's New Jersey.

8 Q. Is Centerville a majority minority
9 district?

10 A. Yes.

11 Q. And it was not a majority minority
12 district before the 2010 census?

13 A. That is correct.

14 Q. Thank you.

15 Were you involved in the hiring of any
16 consultants for the redistricting after the 2010
17 census?

18 A. No.

19 Q. Did you have any conversations with anyone
20 regarding redistricting?

21 A. I spoke to then it was Vice Mayor Jones
22 and Glen Davis who were the two Council liaisons

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1 doing that.

2 Q. Earlier you said -- you were saying they
3 were looking for a majority minority district and
4 you said to bring it to you. You meaning
5 Centerville?

6 A. Centerville.

7 Q. Who were those conversations with?

8 MR. BOYNTON: I'm going to object at this
9 point. I think we're getting in the exact type of
10 conversations that are protected by legislative
11 privilege to the extent they are not public
12 conversations --

13 A. Right.

14 MR. BOYNTON: -- and they are limited to
15 members of City Council. To the extent that they
16 are public conversations or they are conversations
17 with other than fellow members of City Council,
18 you're free to answer.

19 A. Okay.

20 Q. You can proceed.

21 A. You know, like I said, you know, I don't
22 remember any other conversations.

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1 Q. All right.

2 MS. LANG: You kind of identified who you
3 spoke to.

4 MR. BOYNTON: He did. That was the last
5 question, I thought. Davis and --

6 Q. And Jones.

7 Do you know who Kimball Brace is?

8 A. No.

9 Q. All right.

10 (Exhibit 1 was marked and
11 attached to the transcript.)

12 Q. This is Exhibit 1. Give you some time to
13 look over it.

14 A. Thank you.

15 Q. Are you ready?

16 So the document I've handed you is a City
17 Council agenda. The date listed is April 19th,
18 2011; is that correct?

19 A. Yes.

20 Q. Does this City Council agenda look
21 familiar to you at all?

22 A. To be honest with you, no. It's been a

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1 while ago.

2 Q. Totally fair.

3 So in the briefing section on item agenda
4 number 1, do you see the item agenda number 1 is
5 2011 redistricting of City Council residence
6 districts?

7 A. Yes.

8 Q. Mr. Kimball Brace, president of Election
9 Data Services, do you see that?

10 A. Yes, I do.

11 Q. Do you have any knowledge of what
12 Mr. Brace's role in the redistricting process was
13 in 2011?

14 A. Quite frankly, I don't remember.

15 Q. All right. Do you remember at any point
16 in 2011 were there any conversations regarding
17 switching to single member districts instead of
18 the current at-large system?

19 A. I have no recollection of that.

20 Q. All right. Do you know what Election Data
21 Services is?

22 A. Quite frankly, no.

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1 Q. Talk to me about electing to make
2 Centerville a majority minority district. Why
3 were you so willing to volunteer Centerville as a
4 place where the majority minority district would
5 be?

6 A. You know, to be honest with you, being a
7 healthcare, you know, professional, I just wanted
8 to see equal representation.

9 Q. With the at-large -- with the way the
10 elections work with the at-large system, do you
11 think the minority community in Centerville have
12 equal representation?

13 A. I wouldn't know how to answer that.

14 Q. All right. So I guess my question is -- I
15 think choosing -- like, saying Centerville should
16 be a majority minority district is commendable.
17 The -- my question is, like, why do that if that
18 doesn't necessarily change who -- if minority
19 votes are still diluted? Does that -- does that
20 make sense?

21 A. But once again -- I understand this is a
22 while ago -- there were conversations, you know,

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1 to have a majority minority district. And based
2 on the composition that I had between African
3 Americans, Filipinos, and everything, I thought it
4 would lend itself favorably to that.

5 Q. All right. So I guess my question is why
6 have a majority minority district if the elections
7 are still at large?

8 A. Right. You know, once again -- you
9 know -- you know, I'm confused. I don't -- I
10 would not know how to answer that question.

11 Q. Is it fair to say that the voters in
12 Centerville -- the majority minority district of
13 Centerville, their votes -- the people in those --
14 in that district, their voice can be drowned out
15 through the at-large system; is that fair to say?

16 A. I can't answer that. No. I can't answer
17 that.

18 Q. Do you know if there have been any
19 elections where the candidate that the Centerville
20 district chose was different than the candidate
21 that won the election, so, like, for example, if
22 candidate A gets, you know, 55 percent of the vote

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1 out of Centerville district but candidate B gets,
2 you know, 60 percent from the rest of the city,
3 and so then candidate B wins?

4 A. Centerville district was a newly created
5 district. It's only, if I'm not mistaken, you
6 know, 17-, 18-years-old. And there have only been
7 three Council representatives.

8 Q. Okay. When was Centerville created as a
9 district?

10 A. I'm not exactly sure of the date.

11 Q. Okay. Were you the first Council member
12 to represent Centerville?

13 A. No. Margaret Eure was the first. I was
14 the second. And now Ms. Wooten.

15 Q. Okay. In order to create a majority
16 minority district you combine -- what populations
17 did you combine?

18 A. I wasn't involved in the process.

19 Q. But you just -- you just told Vice Mayor
20 Jones and, I think it was, Council Member Davis to
21 do what they need to do to create a majority
22 minority district? Does that sound right?

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1 A. Yes.

2 Q. Have you -- do you recall having any
3 conversations with any former City Council members
4 about changing to a district-based system?

5 A. Not to my knowledge.

6 Q. Are you aware if any City Council members
7 have had conversations with Mr. Brace about
8 changing to a district-based system?

9 A. Not to my knowledge.

10 Q. Do you think the city should change its
11 method of electing City Council members?

12 A. Right now -- I have no opinion.

13 Q. Do you vote in City Council elections?

14 A. Yes, I do.

15 Q. Which residency district do you currently
16 live in?

17 A. I live in Lake Christopher, Centerville
18 district.

19 Q. I don't remember Lake Christopher
20 district. Thank you.

21 Have you lived in any other residency --
22 residential district in Virginia Beach?

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1 A. No.

2 Q. You mentioned this earlier. But did you
3 know Sabrina Wooten before she ran for City
4 Council?

5 A. She was one of my students at Regent
6 University.

7 Q. Was that when you first met her?

8 A. Yes.

9 Q. How long has that been?

10 A. I want to say I've probably known her for
11 at least six years.

12 Q. What were you teaching?

13 A. Government.

14 Q. What do you mean by Government? Just
15 like --

16 A. Public administration.

17 Q. Is it a specific class or is it Government
18 kind of generally, like city policies?

19 A. City policies, political management, you
20 know, other courses.

21 Q. Was this a master's program?

22 A. Master's program.

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1 Q. Master's program. Okay.

2 How long have you been teaching at Regent?

3 A. Oh, I gave that up a couple years ago. I
4 taught there 12 years.

5 Q. Okay. Were you mostly teaching Government
6 or was it --

7 A. Government.

8 Q. Okay. And you supported Sabrina's
9 candidacy for City Council, right?

10 A. Let me put -- not an outward endorsement.
11 As I said, we were -- you know, we did assist her.

12 Q. Okay. Talk to me about how you assisted
13 her. Like, what does that look like?

14 A. I showed up at her kickoff event.

15 Q. Okay.

16 A. And, you know, she came to me for advice.

17 Q. All right. About the --

18 A. Campaign.

19 Q. About the --

20 A. About running, when she expressed an
21 interest in running and everything.

22 Q. Okay. When did Sabrina first approach you

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1 about running for City Council?

2 A. (Moved head up and down.)

3 Q. When was this?

4 MS. LANG: You nodded your head.

5 MR. BOYNTON: I think his -- split your
6 questions in two.

7 A. Please.

8 MS. LANG: So did Sabrina Wooten approach
9 you?

10 A. Yes.

11 BY MR. LAMAR:

12 Q. Did Sabrina Wooten approach you about
13 running for City Council?

14 A. Yes.

15 Q. And when was this?

16 A. I have -- it was sometime before election
17 season. I'm not sure when.

18 Q. Would you say, you know -- over six years.
19 Would you say three years ago?

20 A. It was -- no. It was -- I'm not -- like I
21 said -- see, I was Centerville rep, and then I ran
22 as -- you know, for the election, and then the

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1 vacancy came up.

2 Q. So when does election season for, like,
3 the 2018 election, when does election season
4 start?

5 A. It depends. But the Mayor resigned in
6 April of 2018, and that's when I -- I declared May
7 1st of 2018.

8 Q. And when was the launch of her event?

9 A. I don't recall.

10 Q. Okay. Would you -- was the launch of her
11 event after you announced your candidacy for
12 Mayor?

13 A. Yes.

14 Q. In preparation for her candidacy, how many
15 times did you-guys meet?

16 A. Just -- I really don't recall.

17 Q. All right. When you-guys were meeting,
18 did you encourage her to run?

19 A. Yes.

20 Q. Did you have any -- so you talked about
21 with Sabrina -- you had these meetings for the
22 kickoff, you showed up at the kickoff event, and

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1 you had meetings with her outside of that. Did
2 you do any of those activities for any other
3 candidates?

4 MR. BOYNTON: Are you asking for that
5 election cycle?

6 MR. LAMAR: Yes.

7 A. Like I said, you know, we -- I focused on
8 my own race.

9 Q. Okay. When Sabrina -- all right. So
10 backing up, when Sabrina reached out to you to
11 express her interest in running for City Council,
12 how did -- how did she do that? Was it phone
13 call, email?

14 A. You know, I forget what it was, but, you
15 know -- like I said, it was -- I don't recall
16 exactly when or how.

17 Q. Yeah.

18 When you were having the discussions about
19 her running for City Council, was that in-person?

20 A. Yes.

21 Q. Did you know Aaron Rouse before he ran for
22 City Council?

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1 A. Yes.

2 Q. How long did you know him?

3 A. That's when I met him.

4 Q. When he ran for City Council is when you
5 met him?

6 A. Yes.

7 Q. All right. Had you ever heard of him
8 before he ran for City Council? Like, had you
9 heard the name before?

10 A. Not really.

11 Q. All right. Did you support his candidacy
12 at all?

13 A. No.

14 Oh. Wait a minute. God. It's still no.
15 No.

16 Q. Okay.

17 A. I'm just trying to think back then.

18 Q. Did you show up at any kickoff events?

19 A. I did show up at his kickoff event, yes.

20 Q. Do you know if any Latino candidates have
21 ever been elected to City Council?

22 A. Not to my knowledge.

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1 Q. Do you know if any Asians have been
2 elected to City Council?

3 A. Ron Villanueva.

4 Q. Did you support Ron's candidacy when he
5 was running for City Council?

6 A. I actually ran against him in 2002.

7 Q. That's a no, I'm assuming?

8 MR. BOYNTON: At least in that one.

9 Q. Do you recall there being an incident
10 where there were two sets of sample ballots being
11 passed out by poll workers? Does that sound
12 familiar to you at all?

13 A. (Moved head from side to side.)

14 MR. BOYNTON: You need to answer verbally.

15 A. No, I did not.

16 Q. And so there were concerns that at a
17 polling station a candidate -- it's not
18 particularly clear who, but a candidate was
19 passing out or workers for a candidate were
20 passing out two sets of sample ballots, one -- and
21 they were based on color. One Aaron Rouse's name
22 was on the sample ballot, but on the other sample

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1 ballot Aaron Rouse's name was not on it, and that
2 was the only difference between the two sets of
3 sample ballots. Does that sound familiar to you
4 at all? Have you heard this before?

5 A. I have not heard that, no.

6 Q. All right.

7 MS. LANG: Should we take a break before
8 you launch into the next section?

9 MR. BOYNTON: Are you going to launch,
10 really, a full launch?

11 MS. LANG: A full launch.

12 MR. LAMAR: Above the clouds.

13 (A recess was taken.)

14 Q. Continuing on.

15 A. Okay.

16 Q. So talk to me about how do you communicate
17 with other Council members. If you want to reach
18 out to another Council member, how do you do so?

19 A. I prefer face-to-face, phone.

20 Q. Anything else?

21 A. That's, basically, it.

22 Q. What would you say is the breakdown

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1 between face-to-face and phone conversations?

2 A. It depends. It really does.

3 Q. What does it depend on, would you say?

4 A. On the issue, what it's about, you know.

5 It's, you know -- but, you know, I prefer voice --
6 you know, voice interaction.

7 Q. All right. When you're doing
8 face-to-face, where do you meet them?

9 A. Now that I have an office, in my office.
10 Council -- district people don't have offices
11 where we would meet.

12 MR. BOYNTON: That came up this morning.

13 A. Yeah.

14 Q. And I'm guessing you also discuss city
15 business with face-to-face and phone
16 conversations?

17 A. Yes.

18 Q. Is that right?

19 Do you discuss city business with other
20 Council members via text message?

21 A. No. I prefer, you know, voice.

22 Q. All right.

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1 A. You know --

2 Q. It's understandable.

3 A. Yeah.

4 Q. So you -- I want to be clear about this.

5 You've never, like, sent an email or a text
6 message to a Council member about city business?

7 A. On rare occasions. I prefer not to. If I
8 get a text -- sometimes if I get a text, I'll call
9 back. That's the way I prefer to do it.

10 Q. Just guessing, when was the last time you
11 think you sent a text message about -- to a City
12 Council member about city business?

13 A. I tell you what, I can't really recall
14 because I really, you know -- like, you know, a
15 member will -- like I said, they'll text me, and
16 I'll call back.

17 Q. Okay. What was the last time you would
18 say you received a text message from a Council
19 member about city business?

20 A. You know, one Councilman sent me a
21 message, but then I spoke to him face-to-face.

22 Q. Got it. Okay.

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1 Did you produce any of the relevant text
2 messages to plaintiffs, if there are any relevant
3 text messages?

4 MR. BOYNTON: That assumes there are any.

5 Q. First question, are there any relevant
6 text messages?

7 A. No.

8 Q. When you were -- you recall looking at the
9 Rule 45 subpoena, correct?

10 A. Yes.

11 Q. What accounts did you search for when you
12 produced the documents pursuant to the subpoena?

13 A. Well, just -- you know, once again, I --
14 first of all, I had no recall of any, you know,
15 that type of thing.

16 MR. BOYNTON: I believe he offered some
17 testimony earlier on in deposition.

18 MR. LAMAR: That's fine. I was getting
19 there. That's fine.

20 A. Yeah.

21 Q. Do you have any -- when you were running
22 for Mayor and when you were running for Council

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1 member, did you have any campaign materials?

2 A. Yes.

3 Q. Did you produce any of those campaign
4 materials, like flyers or anything like that?

5 A. No.

6 Q. Why not?

7 A. I just, basically, had a website and, you
8 know, things of that nature, and some of the other
9 things.

10 Q. When you were running for Mayor and as
11 Council member, did you have the same campaign
12 staff for both -- for, like, those elections?

13 A. For the most part.

14 Q. Okay. How large was your staff?

15 A. Two paid. That was it. And, then,
16 volunteers.

17 Q. So two paid staff and --

18 A. Volunteers.

19 Q. Everyone else are volunteer staff?

20 A. Yes.

21 Q. Do you think your campaign staff kept your
22 campaign materials?

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1 A. You know, basically, I had signs and the
2 website.

3 Q. What was on the website?

4 A. You know, just my bio and, you know, what
5 I intended to do and, you know, pledged to do,
6 things of that nature.

7 Q. Did you have any social media?

8 A. Yeah. We did have social media.

9 Q. Which social media -- I guess which -- I'm
10 sorry. Which social media websites did you have
11 an account?

12 A. Facebook.

13 Q. Facebook?

14 A. Yeah.

15 Q. Were there any -- were you using any other
16 social media accounts: Twitter, Instagram?

17 A. I think we did use -- let me put it this
18 way. I had somebody do my -- I am not a tech
19 person at all. I loved my beeper so much back in
20 the day, but, you know...

21 Q. What were the names of your -- the paid
22 campaign staff?

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1 A. Okay. Brian Kirwin.

2 Q. Can you spell that?

3 A. K-I-R-W-I-N. And Jimmy Frost, F-R-O-S-T.

4 He was my web designer.

5 Q. Jimmy Frost was the web designer?

6 A. Yes. And social media.

7 Q. What was Brian's title?

8 A. Campaign Manager.

9 Q. All right.

10 A. Those were the paid people.

11 Q. Yeah.

12 Did you have Jimmy Frost look through the
13 website to see if there were any responsive
14 documents?

15 A. Frankly, no, because, like I said, I don't
16 remember anything that had to do with that topic.
17 I think a question or two may have came up during
18 forums, but that was it, but I had no, you know,
19 position on that.

20 Q. All right. Do you remember your account
21 name for -- on Facebook?

22 A. Bob Dyer for Mayor.

Transcript of Robert M. Dyer
Conducted on September 11, 2019

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1 Q. All right.

2 A. Bobby Dyer for Mayor. I'm sorry.

3 Q. No problem.

4 Okay. All right. Let's talk a little bit
5 about the disparity study.

6 A. Okay.

7 MR. BOYNTON: Can we move these? Are we
8 done with these?

9 MR. LAMAR: We're done with those. I'm
10 sorry.

11 MR. BOYNTON: Those go to him. And she
12 keeps the one with the sticker on it.

13 A. There you go.

14 Q. Isn't it true that minority members of the
15 community had been asking for a disparity study
16 for a while?

17 A. Yes.

18 Q. What is the Virginia Beach
19 Interdenominational Ministers Conference?

20 A. You know, that's comprised of Gary
21 McCollum, Reverend Allen, and a few others.

22 Q. I'm sorry?

Transcript of Robert M. Dyer
Conducted on September 11, 2019

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1 A. Pardon?

2 Q. Who is Bruce Smith?

3 A. Bruce Smith is, you know, a friend and
4 colleague of mine that I've been working with for
5 three-and-a-half years now.

6 Q. Had you heard of Bruce Smith before three
7 years ago?

8 A. Obviously, yes.

9 Q. Outside of football, had you heard of
10 Bruce Smith in Virginia Beach?

11 A. Yes.

12 Q. Isn't it true that groups, such as the
13 Ministers Conference, and individuals, such as
14 Mr. Smith, were asking for a disparity study
15 before you became Mayor?

16 A. Yes.

17 Q. Is it true November 2016 Bruce Smith sent
18 a letter to Mayor Sessoms calling for a disparity
19 study?

20 A. To my recollection, yes.

21 (Exhibit 2 was marked and
22 attached to the transcript.)

Transcript of Robert M. Dyer
Conducted on September 11, 2019

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1 Q. So I'm handing you what has been marked as
2 Exhibit 2 by the court reporter.

3 A. Uh-huh.

4 Q. Have you seen this document before?

5 A. Yes, I have.

6 Q. What is it?

7 A. It's a request for a disparity study.

8 Q. What were your thoughts when you saw this
9 letter?

10 A. You know, I agreed that Mr. Smith had
11 difficulty doing business with the city and it was
12 of a contractual nature, inability to get, you
13 know, some of his projects through.

14 Q. Why do you believe he was having
15 difficulty in getting contracts with the city?

16 A. Tell you what, I'm not -- I am not aware
17 of the specific reason.

18 Q. All right. Are you testifying that
19 Mr. Smith was only requesting a disparity study
20 because of his personal inability to get city
21 contracts?

22 A. Mr. Smith and I had a number of

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1 conversations --

2 Q. Uh-huh.

3 A. -- and concerned, you know, providing a
4 better level playing field to, you know, be
5 able -- for anybody to do business with the City
6 of Virginia Beach. We have been in those
7 conversations for a number of years.

8 Q. Do you believe at least part of
9 Mr. Smith's difficulty in getting contracts with
10 the city was because of his race?

11 A. I don't think it was necessarily -- I
12 really don't know how to answer that. It was --
13 you know, a number of developers have experienced
14 frustrations doing business with the city.

15 Q. Would you say it's difficult for a lot of
16 developers to get contracts with the city?

17 A. Perception-wise this is a common thing
18 I've heard since I've been on Council.

19 Q. Do you think that's the reality?

20 A. To a degree, yes.

21 Q. All right. What do you think is the
22 difference between, I guess, the perception and

Transcript of Robert M. Dyer
Conducted on September 11, 2019

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1 reality?

2 A. Well, you know, one of the -- you know, I
3 started a Process Improvement Task Force years ago
4 to help improve the processes that people are able
5 to do business, you know, with the city. And
6 we've been working on that for seven years.

7 Q. Would you say a lot of minority developers
8 have trouble getting contracts with the city?

9 A. We actually did a study and found out that
10 it was an across-the-board difficulty in doing,
11 you know, business.

12 Q. So if everyone is having difficulty in
13 getting contracts with the city, who isn't having
14 difficulty in getting contracts with the city?

15 A. You know, there might be -- you know, once
16 again, there is a perception that some developers,
17 you know, get carte blanche and others have more
18 difficulty.

19 Q. Why did it take so long for a disparity
20 study to happen?

21 A. You know, a couple reasons. And, you
22 know, I was with the Minority Business Council at

Transcript of Robert M. Dyer
Conducted on September 11, 2019

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1 the beginning. And there were some minorities
2 that wanted a disparity study. Others did not
3 think it was necessary. And, you know, once
4 again, the city through the Minority Business
5 Council initiatives with the Purchasing Department
6 were making some good gains going forward. And,
7 you know, so -- you know, but, once again, it was
8 a mix. Not everybody wanted it.

9 Q. Okay. By not everyone wanting it, who are
10 you -- are you referring to members on the
11 Minority Business Council?

12 A. Minority Business Council and some people
13 in the community at large.

14 Q. Why -- okay. First question is why were
15 there people on the Minority Business Council who
16 did not want the disparity study?

17 MR. BOYNTON: If they expressed it to you
18 or you know for some reason, you can answer.
19 Don't speculate.

20 A. I really can't speculate as to the reason.
21 But, you know, it was -- you know, I think, once
22 again, I think some people in the Minority

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1 Business Council felt we were making progress --
2 you know, significant progress, which we were.

3 MR. BOYNTON: You're almost out of Post-It
4 notes.

5 A. Yeah.

6 Q. Which City Council members didn't want the
7 disparity study?

8 A. I don't think I could, you know, respond
9 to that with, you know...

10 Q. Were there any City Council -- do you
11 remember any City Council members publicly stating
12 they did not want a disparity study?

13 A. I don't recall, you know, publicly, but --

14 MR. BOYNTON: Again, I'd ask you not to
15 answer to the extent it relates to private
16 conversations with other Council members.

17 Q. Which is why I said publicly.

18 MR. BOYNTON: I'm just --

19 A. Yeah. It wasn't a public thing.

20 MR. LAMAR: This is Exhibit 3.

21 (Exhibit 3 was marked and
22 attached to the transcript.)

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Conducted on September 11, 2019

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1 Q. Okay. I've handed you what the court
2 reporter has marked as Exhibit 3.

3 A. Okeydokey.

4 Q. Have you seen this document before?

5 A. I've seen excerpts of this, yes.

6 Q. I'll represent to you this is the
7 executive summary --

8 A. Okay.

9 Q. -- and not the complete document because I
10 think the whole document is almost 500 pages.

11 So the city revealed the final disparity
12 report in October 2018? Does that sound about
13 right to you?

14 A. That is correct.

15 Q. And the study found that "Overall, the
16 participation of minority- and woman-owned
17 businesses in contracts that the city awarded
18 during the study period was substantially lower
19 than one might expect based on availability of
20 those businesses for that work." Is that correct?

21 A. That is correct.

22 Q. Why weren't there procedures in place

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1 before the disparity study to ensure the adequate
2 participation of minority-owned businesses in city
3 contracts?

4 MR. BOYNTON: Objection. Assumes facts
5 not in evidence.

6 You can answer.

7 Q. You can answer.

8 A. As I said, we were working diligently
9 through the Minority Business Council, you know,
10 to -- you know, to make those strides. And over
11 the last couple of years we hired an individual by
12 the name of Taylor Adams, who came in with just a
13 plethora of knowledge and ideas. And we have made
14 significant progress in the last couple of years.

15 Q. All right. Were there procedures in place
16 before the -- were there procedures in place to
17 assure the adequate participation of
18 minority-owned businesses before the disparity
19 study was --

20 A. Let me -- we were moving in that
21 direction.

22 Q. Okay. Okay. Have there been any reports

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1 on the updated status of the participation of
2 minority-owned businesses since the disparity
3 report was released?

4 A. From my knowledge, we had a briefing by
5 Taylor Adams that over the last I forget how many
6 years substantial progress has been made in moving
7 in that direction.

8 Q. You said the last several years?

9 A. Yes.

10 Q. Can you give me a timeframe?

11 A. I can't give you an exact timeframe.

12 Q. I mean, just a ballpark?

13 A. It is available. I would say the last
14 three years, approximately.

15 Q. Okay.

16 A. I can't guarantee that. But a number of
17 innovative initiatives have been put in place to
18 address this.

19 Q. Tell me about those initiatives.

20 A. Oh, my goodness. We've been doing things
21 like Contractors Institute. Hampton University
22 put out a report where a number of the minority --

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1 Hampton University put out a report that a number
2 of minority contractors lacked capacity to do the
3 work. So what we did, we tried -- we had these
4 things called the Contractors Institute where we
5 would put people together and try to line up so,
6 two things, people could actually, you know, work
7 conjointly to qualify for the work or, you know,
8 better ways to, you know, fill out the
9 applications and do things.

10 And, you know, we changed, you know, the
11 bond requirements and, you know, things along that
12 line. But it was also educating the community,
13 you know, on better ways -- on how to more
14 effectively work with the city.

15 Q. All right. So the -- correct me if I'm
16 wrong. Are you saying the Contractor Institute,
17 did that -- would you say that came up as a part
18 of the report released by Hampton?

19 A. It was -- we actually started that a
20 little bit before.

21 Q. Okay.

22 A. But, once again, we realized some of the

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1 frustrations people were, you know, encountering
2 doing business with the city.

3 Q. So you -- kind of correct me if -- I just
4 want to make sure I understand, sort of, like the
5 role of the Contractor Institute. If I'm -- if
6 I'm a contractor company A and I can do things 1,
7 2, and 3 --

8 A. Right.

9 Q. -- and, then, there is contractor B that
10 can do things 4, 5, and 6, and the contract asks
11 for -- the contract from the city is a joint
12 contract asking for items 1, 2, 3, 4, 5, 6, is the
13 point of the Contractor Institute, is it to bring,
14 like, A and B --

15 A. The system is to bring together -- oh.
16 I'm sorry. My apologies.

17 MR. BOYNTON: You're good.

18 Q. I can just -- do you need me to ask it
19 again?

20 Is the point of the Institute to sort of
21 bring contractor A along to, like, introduce them
22 to contractor B and they can sort of submit a

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1 joint --

2 A. That would be a representation.

3 Q. Okay.

4 A. The idea is to, you know -- to, you know,
5 find methods and ways that various businesses can
6 come together, maybe file it conjointly to qualify
7 to do the work.

8 Q. Okay. Thank you.

9 I want you to turn to pages 11 through 14.

10 A. Uh-huh.

11 Q. Please.

12 A. Sure.

13 Q. I believe it's page 11, but I'm not 100
14 percent sure.

15 Actually, let's start on page 12.

16 A. Okay.

17 Q. So what we're looking at is the
18 suggestions for program implementation; is that
19 correct? So on the previous page, on page 11 --

20 A. Okay.

21 Q. -- Section E says program implementation?

22 A. Uh-huh.

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1 MR. BOYNTON: Take enough time to make
2 sure you know where you are.

3 Actually, that's not -- that's the report
4 page 11, not --

5 Q. DEF10920.

6 MR. BOYNTON: I think I zipped past it.
7 There you go.

8 Q. On DEF10920, that says program
9 implementation, section E. Do you see that?

10 A. Section E. Yep.

11 Q. And, then, turning the page, it looks like
12 a couple of recommendations from the company
13 responsible for drafting this report; is that
14 correct?

15 A. That is correct.

16 Q. You see the -- one of the suggestions is
17 the creation of a SwaM office. Do you see that
18 part?

19 A. Yes.

20 Q. Has a SWaM office been created?

21 A. To be honest, I am not sure.

22 Q. All right. SWaM stands for --

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1 A. Yes. I know. Small, Woman- and -- yes.

2 Q. Just get on the record, Small, Woman- and
3 Minority-Owned Businesses; is that correct?

4 A. Yes. That is correct.

5 Q. The next suggestion is data collection.
6 The second sentence, which is the third line down
7 in that paragraph, says, "However, the city does
8 not maintain an adequate link between its
9 contracting and payment information and could
10 easily do so in its current system."

11 Has there been any changes to the data
12 collection method done by the city?

13 A. To my knowledge and understanding, there
14 were moves made in this regard, but I'm not
15 exactly sure of the specifics.

16 Q. Okay. We can turn to the next page. And
17 we see subcontract opportunities?

18 A. Uh-huh.

19 Q. The first sentence reads, "Subcontracts
20 often represent accessible opportunities for small
21 and diverse businesses to become involved in
22 contracting."

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1 Have you seen -- do you know if there's
2 been an increase in subcontracting opportunities
3 with the city?

4 A. Not to -- not to my knowledge.

5 Q. All right. We can go down to the next one
6 of unbundling -- I'm sorry -- to -- skip contract
7 goals and go down to unbundling large contracts.

8 A. Uh-huh.

9 Q. Do you see the first sentence reads, "In
10 general, minority- and woman-owned businesses
11 exhibited reduced availability for relatively
12 large contracts that the city awarded during the
13 study period."

14 And this -- the paragraph continues, "In
15 addition, as part of the in-depth interviews and
16 public meetings, several business owners reported
17 that the size of government contracts often serves
18 as a barrier to their success. To further
19 encourage the participation of small and diverse
20 businesses, the city should consider making
21 efforts to unbundle relatively large prime
22 contracts and even subcontracts into several

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1 smaller contracts."

2 To your knowledge, has the City of
3 Virginia Beach done that so far?

4 A. To my knowledge, I believe Taylor Adams
5 did make recommendations in that regard.

6 Q. So talk to me about the Taylor Adams
7 recommendations. When were they made?

8 A. He has been -- you know, since he came on
9 board, I guess, maybe around three years ago now,
10 I'm not sure, he's been -- he's been building
11 positive bridges with the Minority Business
12 Council and coming up with ways and means. And if
13 I'm not mistaken, I do believe unbundling was one
14 of recommendations.

15 Q. What's Taylor Adams' -- do you know Taylor
16 Adams' official title?

17 A. Right now -- he was over Purchasing, but
18 now he has been promoted to our Director of
19 Economic Development.

20 Q. All right. Have any of those -- okay. So
21 how many recommendations has Taylor Adams made so
22 far, to your knowledge?

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1 A. I cannot, you know, give you an exact
2 account.

3 Q. Can you give me a ballpark? Three? Four
4 to three?

5 A. I'm sure the information is available. I
6 can't supply it at this time.

7 Q. Of the ones -- can you just tell me about
8 the recommendations Taylor Adams has made -- that
9 you know that Taylor Adams has made?

10 A. There was a detailed presentation that he
11 made at one point where he articulated those, but
12 I can't recall specifically.

13 Q. All right. To your knowledge, of the
14 recommendations that Taylor Adams has made, have
15 any of them been implemented?

16 A. I can't guarantee it, but, from what I
17 understand, they were moving in that positive
18 direction.

19 Q. So as -- I just want to kind of back up
20 for a quick second.

21 As a City Council member and as Mayor --
22 as now Mayor, you're saying that the

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1 responsibilities are -- your responsibilities are
2 presiding over City Council?

3 A. Right.

4 Q. Approving the agenda, budgetary matters,
5 and policy decisions?

6 A. Right.

7 Q. When Taylor Adams makes any of his
8 recommendations, does that have to go through City
9 Council or can he do those sort of unilaterally?

10 A. Well, in a Council/Manager form of
11 government he would move forward, but he does
12 brief Council on his actions.

13 Q. All right. Do you know how often he has
14 to brief Council?

15 A. As needed.

16 Q. All right. Would he have to -- when he's
17 briefing Council, is he briefing -- let me back up
18 for a second.

19 Would he have to brief Council for both
20 the policy decisions for the recommendations and
21 the budgetary requests or would it just --

22 A. A couple of areas. First of all, the

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1 Minority Business Council gives us their annual,
2 you know, review about, you know, what was going
3 on, what was kind of accomplished. But, also,
4 certainly there were other briefings associated
5 with the disparity study, you know, results. And
6 I believe he did do a follow-up briefing right
7 after the -- when the disparity study was
8 presented.

9 Q. All right. All right. Do you recall if
10 any of his recommendations would require budgetary
11 adjustments?

12 A. I don't recall.

13 Q. Would you say a disparity still exists in
14 the procurement of city contracts for
15 minority-owned businesses?

16 A. To a degree. I'm not sure, but be assured
17 we are working diligently, you know, to correct.

18 Q. Yeah.

19 A. And if I'm not mistaken, we actually
20 increased, you know, the requirement -- I'm not
21 sure -- maybe from, you know, a goal of 10 percent
22 to 12 or 14 percent, you know.

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1 Q. All right.

2 A. You know, we're moving in that. We are
3 moving positively.

4 Q. Has the city previously reached a goal of
5 10 percent? Has the city ever -- to your
6 knowledge, has the city ever reached a goal of 10
7 percent?

8 A. No. To my knowledge, no.

9 Q. Yeah.

10 All right. I think we're done with the
11 disparity study.

12 MR. BOYNTON: I'll be the housekeeper.

13 A. Thank you.

14 MR. BOYNTON: Give her the Post-Its. She
15 can recycle them. A tree died for these
16 scribbles.

17 A. I still like paper a lot better.

18 (Exhibit 4 was marked and
19 attached to the transcript.)

20 Q. All right. So I have handed you what has
21 been marked Exhibit 4 by the court reporter.

22 A. Uh-huh.

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1 Q. Have you seen this document before?

2 A. I don't recall this one in particular.

3 Q. All right. To you, what does it look
4 like?

5 A. It looks like the minutes from a Minority
6 Business Council meeting from 2011.

7 Q. Okay. Were you a liaison with the
8 Minority Business Council?

9 A. Yes, I was.

10 Q. How long were you a liaison with them?

11 A. Fourteen years.

12 Q. Did you step down from being a liaison
13 when you became Mayor; is that correct?

14 A. Yes.

15 Q. So from 2004 to 2018?

16 A. Yes.

17 Q. Who was the liaison after you?

18 A. Shannon Kane and -- I'm trying to think.
19 I believe that Aaron Rouse is now.

20 Q. That's right. Okay.

21 All right. So talk to me a little bit
22 about the Minority Business Council. Who was on

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1 it? Like, how do you become a member of the
2 Minority Business Council?

3 A. Basically, if there is a vacancy the chair
4 of the Minority Business Council would make
5 recommendations. And, then, we would, you know,
6 approve the recommendations in closed session
7 during our Council appointments phase.

8 Q. So everyone who is on the Council has been
9 approved by City Council --

10 A. That is correct.

11 Q. -- at some point?

12 A. But they also have affiliate members. But
13 the actual members are approved by City Council.

14 Q. Like, the actual -- the actual, like,
15 Minority --

16 A. Yes.

17 Q. -- Business Council is approved by City
18 Council?

19 A. Correct.

20 Q. Are the -- looking at this page, are the
21 associates also approved by City Council, do you
22 know?

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1 A. No. No.

2 Q. All right. To your knowledge, how do
3 vacancies on the Minority Business Council
4 generally occur? Is it someone steps down or is
5 it, like, someone resigns or --

6 A. Two basic reasons. First of all, you get
7 cycled off after so many years of appointment.

8 Q. Okay.

9 A. And the other thing is somebody may
10 voluntarily step down.

11 Q. All right. Is there a term limit for
12 Council members or -- for the Minority Business
13 Council members?

14 A. I'm going to say it's four years or two
15 years. I'm not -- it just, you know, skips my
16 mind right now. But almost every Council
17 appointee, you know, does have a limit. And that
18 has to be neither reappointed -- and, then, after
19 so many reappointments they're not eligible
20 anymore.

21 Q. All right. When you were a liaison to the
22 Minority Business Council, did you believe

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1 minorities had an equal opportunity to do business
2 with the city?

3 A. There were definite areas of improvement
4 that were needed.

5 Q. All right. What would you say those areas
6 were?

7 A. You know, just to make sure that, you
8 know, people were qualified, and, you know -- you
9 know -- you know, we were, you know, to help them,
10 you know, be able to provide the capacity to, you
11 know, to do the work and things of that nature.

12 There was a lot of -- Minority Business
13 Council would run expos and different types of
14 events, you know, to -- you know, to encourage
15 people to come forward and -- you know, that type
16 of thing.

17 Q. Would you say there was sort of -- at this
18 time, I guess -- I guess sticking with sort of
19 around this time when you're on the Council, would
20 you say there is a difference between the
21 capabilities of minority businesses versus what
22 capabilities the city needed in terms of handing

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1 out contracts?

2 A. I believe that, you know, a lot of folks
3 were -- you know, were struggling with capacities
4 and being able to do. That was across the board.
5 But, you know, we certainly wanted to -- we were
6 actively pursuing increasing minority
7 participation. That was one of our goals.

8 Q. All right. Okay. So this document says
9 that there was a Minority Business Council meeting
10 on January 14th, 2011. Do you see that?

11 A. Uh-huh. Yes.

12 Q. And it has your name listed as a liaison.
13 Do you see that?

14 A. Yes.

15 Q. It also says you were absent?

16 A. That is correct.

17 Q. If you were absent from a meeting, would
18 you see the minutes from the meeting after that?

19 A. We usually get the minutes at the next
20 meeting. And we always like to try to make sure
21 one of the liaisons is there.

22 Q. Okay. I want to direct your attention to

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1 DEF12945.

2 A. Okay.

3 Q. All right. Do you see that this is a
4 PowerPoint presentation?

5 A. That is correct.

6 Q. You see that this presentation is titled
7 Small, Woman-Owned and Minority Business
8 Procurement?

9 A. Yes.

10 Q. Do you see the next line which says
11 Today's Agenda?

12 A. Yes.

13 Q. Do you see the agenda items are minority
14 procurement trends in Virginia Beach, state
15 disparity study review, current city practices,
16 alternatives, and recommendations, respectively?

17 A. Correct.

18 Q. Do you see the slide titled Introduction?

19 A. Yes.

20 Q. Do you see the slide that states MBC
21 created by Council in 1995 --

22 A. Correct.

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1 Q. -- to encourage small, woman-owned and
2 minority-owned businesses to participate in city
3 contacting?

4 A. Yes.

5 Q. Do you see the next bullet point where it
6 says minority participation has not grown
7 significantly?

8 A. That is correct.

9 Q. All right. Let's turn to the next page.
10 Do you see the slide titled Commonwealth
11 Procurement Disparity Study?

12 A. Yes.

13 Q. Do you see that the conclusion is M/WBE
14 utilization was low at 1.27 percent; MBE was only
15 .44 percent?

16 A. Uh-huh.

17 Q. M/WBE stands for minority- or woman-owned
18 business enterprises; is that correct?

19 A. Uh-huh. To my knowledge, yes.

20 Q. And MBE stands for minority-owned business
21 enterprises, correct?

22 A. Yes.

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1 Q. Let's turn to the next page. Do you see
2 the slide titled Recommendations, bottom left
3 corner?

4 A. Yes.

5 Q. Do you see the recommendation that the
6 City Council adopt a "resolution that acknowledges
7 and supports the Commonwealth Disparity Study as
8 representative of Virginia Beach's results and,
9 therefore, a disparity study is not necessary"?

10 A. Yes.

11 Q. To your knowledge, did the City Council
12 adopt this resolution?

13 A. To my knowledge, I don't remember, to be
14 honest with you.

15 Q. Do you know if you advocated for adopting
16 or not adopting this resolution?

17 A. I don't recall.

18 Q. Did you believe that the minority- and
19 woman-owned business enterprise utilization of
20 1.27 percent was sufficient?

21 MR. BOYNTON: Objection. Are you asking
22 about the state rate?

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1 MR. LAMAR: Yes.

2 A. The only thing I generically recall about
3 this time was we were aware that there were some,
4 you know, barriers and other considerations out
5 there and that we were proactively working with
6 our Purchasing Department, you know, to overcome,
7 you know, these things. It's been a work in
8 progress over the years.

9 Q. Do you believe minority-owned businesses
10 in Virginia Beach were having similar problems as
11 minority-owned businesses in the rest of the State
12 of Virginia?

13 A. You know, I don't know if I can make that
14 assumption.

15 Q. All right. Looking at the next slide, do
16 you see the one that says "This is a beginning"?

17 A. Yes.

18 Q. Do you see that the Minority Business
19 Council stated that the Council may need -- "May
20 need to consider a disparity study"?

21 A. Yes.

22 Q. Do you recall if you advocated or didn't

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1 advocate for a disparity study in 2011?

2 A. You know, at the time my thought was that
3 we were trying to make progress. I was just going
4 to say just wait a reasonable time to see if we
5 were going to be able to make the progress.

6 Q. All right. Do you recall what a
7 reasonable time would have been for you?

8 MR. BOYNTON: You're asking his opinion in
9 2011.

10 MR. LAMAR: Yes. That's what he said.

11 A. I'm not -- once again, my recollection
12 back there was, you know, this was at a time that
13 there was significant conversation among, you
14 know, members of the Minority Business Council and
15 community where some wanted it and some didn't.

16 Q. Yeah. Okay. We can put this document to
17 the side.

18 (Exhibit 5 was marked and
19 attached to the transcript.)

20 Q. Are you ready?

21 A. Oh, sure.

22 Q. So I'm handing you what has been marked

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1 Exhibit 5 by the court reporter. Do you know if
2 you've seen this document before?

3 A. It looks familiar. I don't remember
4 specifically, but it does look familiar.

5 Q. What does it look like?

6 A. It looks like a letter from, you know, the
7 City Manager to the Mayor about a number of
8 accomplishments moving toward, you know, the goal
9 of addressing the problems we've been discussing.

10 Q. Okay. I'd like to direct your attention
11 to the first paragraph. It states, "Attached is
12 the Annual Report of Expenditures and Purchase
13 Order Awards to Minority, Woman, and Service
14 Disabled Veteran-owned businesses in the City of
15 Virginia Beach for the period beginning July 1,
16 2015 and ending June 30, 2016."

17 A. Uh-huh.

18 Q. "As detailed within the report, awards to
19 minority contractors reached 6.9% or \$12.5
20 million, most of which occurred in the second half
21 of the fiscal year."

22 A. Uh-huh.

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1 Q. Do you see that?

2 A. Yes, I do.

3 Q. Do you think minority communities
4 receiving 6.9 percent of city contracts in a given
5 year is sufficient?

6 A. That was not the goal that we were
7 aspiring to.

8 Q. Would you say at this time -- in the
9 fiscal year 2016 would you say the goal you were
10 aspiring to was about 10 percent?

11 A. I believe it's higher now.

12 Q. It's now higher, right?

13 A. Yes.

14 Q. But at the time would you say it was 10
15 percent?

16 A. It was 10 percent at that time, I believe,
17 yes.

18 Q. Okay.

19 (Exhibit 6 was marked and
20 attached to the transcript.)

21 Q. So I'm handing you what has been marked
22 Exhibit 6 by the court reporter. Do you know if

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1 you've seen this document before?

2 A. I don't remember seeing this particular
3 document.

4 Q. All right. Do you see -- so I guess,
5 first, what is a Virginia Beach City Clip?

6 A. Boy.

7 Q. I was looking at the subject line. It
8 reads Virginia Beach --

9 MR. BOYNTON: Attention right there.

10 Q. Do you know what a Virginia Beach City
11 Clip is?

12 A. I haven't seen this, to be honest with
13 you.

14 Q. So it's true, though, that it's an email
15 from Anna Alfaro to City Manager -- to the City
16 Manager, Constitutional Officers and Appointed
17 Officials, Department Directors, Communications
18 Network, and Executive Assistants; is that right?

19 A. That looks like what it is.

20 Q. Do you see the -- I guess the title in the
21 email on the first page on DEF07731 says Beach
22 City Council approves providing nearly \$425,000

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1 for disparity study?

2 A. That is correct.

3 Q. I'd like you to turn to the next page.

4 A. Uh-huh.

5 Q. It states -- the first complete paragraph
6 that begins with "Councilman Bobby Dyer..." Do
7 you see that paragraph?

8 A. Sure do.

9 Q. It states, Councilman Bobby Dyer -- it
10 says, "Councilman Bobby Dyer, a member of the
11 Minority Business Council and Human Rights
12 Commission, told 10 On Your Side that already he
13 believes the city has made 'very bold attempts to
14 level the playing field...to give everyone equal
15 opportunity to do business with the city.'"

16 A. Yes.

17 Q. "Dyer, who spoke out in support of the
18 study Tuesday, believes its results will serve to,
19 'vindcate' the city." Do you see that?

20 A. Yes, I do.

21 Q. Why did you believe the disparity results
22 would serve to "vindicate" the city?

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1 A. It would show the -- it would document the
2 attempts we made over the years that we have, you
3 know, to correct the deficiencies that -- you
4 know, that were there.

5 Q. Okay. I mean, I know we've talked a lot
6 about the work and the attempts that the city has
7 made to improve the percentage of city contracts
8 that have gone to minority communities. Would you
9 say these attempts have been effective?

10 A. They have been effective, but we have not
11 reached our optimal goal.

12 Q. Do you believe the statistics -- the stats
13 we've discussed today vindicate the city's record?

14 A. To a degree, yes.

15 Q. Why so?

16 A. Because it would show that we are -- we
17 are -- granted, we are moving slowly, but we are
18 moving in the right direction.

19 Q. You would agree that the disparity
20 results -- the disparity study results, in fact,
21 did not serve to vindicate the city?

22 MR. BOYNTON: Objection. Argumentative.

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1 A. But, once again, I think it shows that
2 we -- a positive trend over the years in terms of
3 moving in the right direction.

4 Q. All right. So I just, kind of, want to
5 make sure I understand --

6 A. Oh, sure.

7 Q. -- understand something.

8 So the goal of the city has been to have
9 approximately 10 percent of city contracts --

10 A. Correct.

11 Q. -- to go to --

12 MR. BOYNTON: Let him finish.

13 A. No problem.

14 Q. The goal of the city is to have at least
15 10 percent of city contracts --

16 A. Yes.

17 Q. -- to go to minority communities; is that
18 correct?

19 A. Yes.

20 Q. And in the year previously you knew or at
21 least it was reported that less than 7 percent of
22 city contracts were going to minority communities;

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1 is that correct?

2 A. Correct.

3 Q. Do you believe the improvement in the
4 amount of city contracts awarded to minority
5 communities that still falls short of the goal
6 that the city set for itself vindicates the city?

7 A. Let me -- let me just think about how to
8 say this.

9 The initiatives that we took, you know,
10 became known to members of the Hampton Roads
11 community where cities like Portsmouth and other
12 ones called us for help on how to do it. And it's
13 my knowledge that a lot of cities were having
14 significant problems, you know, meeting these
15 quotas.

16 And I will say that -- I will give you a
17 name. Wes Bellamy, who is Vice Mayor of
18 Charlottesville, came out and met with us to ask
19 how we did things. He was Vice Mayor -- African
20 American, Vice Mayor of that city.

21 What I saw in the workings, in the mix,
22 with, you know -- with the cordial relationship

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1 that the city had with members of the Minority
2 Business Council, I felt that we were making
3 tremendous strides that a lot of cities weren't.

4 Q. All right. Okay. Let me just take a
5 break.

6 MR. BOYNTON: Sure.

7 (A recess was taken.)

8 Q. All right. We only have a couple more
9 questions for you --

10 A. Not a problem. Not a problem.

11 Q. -- before I let you go.

12 A. You've got a job to do.

13 Q. Thank you.

14 So I guess the last bit of questions, I
15 want to talk to you about Dave Hansen.

16 A. Yes.

17 Q. Before Dave Hansen resigned, did you
18 believe that he was performing his job
19 satisfactorily?

20 A. Satisfactory, yes.

21 Q. Before Dave Hansen resigned, he had a
22 couple of incidents with -- in the newspaper?

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1 Would you say that's correct?

2 A. That is correct.

3 Q. After any of those incidents, did you make
4 any calls for Dave Hansen to resign?

5 A. No.

6 Q. Why not?

7 A. Sometimes we all say things that we want
8 to take back. But, you know, he was remarkably
9 effective in many other areas, you know, within
10 the city.

11 Q. What areas would you say he was effective
12 in?

13 A. You know, especially in the areas of storm
14 water, infrastructure, things of that nature, you
15 know, helping me with my town hall meetings,
16 getting an essential road project down in my
17 district that reduced response time, emergency
18 response time, to that area of the city.

19 Q. All right. After any of his incidents,
20 did you ever make any calls for him to be
21 reprimanded in any way?

22 A. That's a personal item.

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1 Q. Did you ever make any public calls for him
2 to be reprimanded in any way?

3 A. No.

4 Q. Why not?

5 A. You know, it was a judgment call. And I
6 addressed it in a private, personal, you know,
7 environment.

8 Q. Did you vote to accept Dave Hansen's
9 resignation?

10 A. That's a matter of record. Yes.

11 Q. Why?

12 A. You know, he submitted the -- his
13 resignation. We had the duty to honor it and to
14 move forward quickly in a new direction for the
15 benefit of the city.

16 Q. All right. I think that's it.

17 MR. BOYNTON: Okay. You have the right to
18 read and sign this deposition transcript when it's
19 transcribed --

20 THE DEPONENT: Okay.

21 MR. BOYNTON: -- to make sure it's been
22 transcribed accurately. We've been recommending

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1 to everyone they go ahead and read. Just tell the
2 lady you read.

3 THE DEPONENT: (Moved head up and down.)

4 MR. BOYNTON: He'll read.

5 You ended non-verbally after all that.

6 THE DEPONENT: There we go.

7

8 (Signature having not been waived, the
9 deposition of ROBERT M. DYER was concluded at 4:07
10 p.m.)

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1 ACKNOWLEDGMENT OF DEPONENT

2 I, ROBERT M. DYER, do hereby acknowledge
3 that I have read and examined the foregoing
4 testimony, and the same is a true, correct, and
5 complete transcription of the testimony given by
6 me and any corrections appear on the attached
7 Errata Sheet signed by me.

8
9
10 _____
11 (DATE)

(SIGNATURE)

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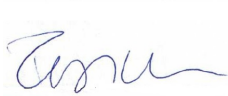
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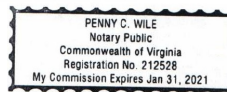
1 CERTIFICATE OF SHORTHAND REPORTER-NOTARY PUBLIC

2 I, Penny C. Wile, RPR, RMR, CRR, the
3 officer before whom the foregoing deposition was
4 taken, do hereby certify that the foregoing
5 transcript is a true and correct record of the
6 testimony given; that said testimony was taken by
7 me stenographically and thereafter reduced to
8 typewriting under my direction; that reading and
9 signing was requested; and that I am neither
10 counsel for, related to, nor employed by any of
11 the parties to this case and have no interest,
12 financial or otherwise, in its outcome.

13 IN WITNESS WHEREOF, I have hereunto set my
14 hand and affixed my notarial seal this 16th day of
15 September, 2019.

16 My commission expires: January 31, 2021.

17
18 



19
20 _____
21 NOTARY PUBLIC IN AND FOR
22 THE COMMONWEALTH OF VIRGINIA

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